IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

CRP.No. 2922 of 2000(B)

SMP.15/1982 of TALUK LAND BOARD, PERINTALMANNA

REVN. PETITIONER: DECLARANT:

KIZHISSERI HAMZA, S/O.KAMMU HAJI,
KAKKOTH AMSOM, P.O.PERINTHALMANNA.

BY ADV. SRI.A.P.CHANDRASEKHARAN
SMT.PRABHA R.MENON
SRI.PUSHPARAJAN KODOTH
SRI.M.KRISHNAKUMAR(MOHANKUMAR ASSOCIATES
SRI.K.JAYESH MOHANKUMAR

RESPONDENTS: RESPONDENTS:

1. THE TALUK LAND BOARD, PERINTHALMANNA.

2. THE VILLAGE OFFICER, PERINTHALMANNA.

3. THE TAHSILDAR, PERINTHALMANNA.

4. THE STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT OF KERALA, SECRETARIATE, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.K.L.LAKSHMI RANI

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.M.P.NO.5902/2000 IN C.R.P.NO.2922/2000

DISMISSED

21/2/2007 SD/- K.T.SANKARAN, JUDGE

//TRUE COPY//

ahz/

K.T. SANKARAN, J.

C.R.P. NO. 2922 OF 2000 B

Dated this the 21st day of February,2007

JUDGMENT

The Revision is filed against the order dated 5.9.2000, passed by the Taluk Land Board, Perinthalmanna. The revision petitioner/declarant was found to be in possession of excess land and as per order dated 6.10.1998 and he was directed to surrender an extent of 1.36 acres. After 1.1.1970, the declarant had acquired certain lands and therefore, proceedings under Section 87 were initiated. By the order impugned, it was found that the total extent of land held by the declarant as on 1.1.1970 was 20.06 acres and that the total extent including the subsequent purchase would be 22.13 acres. A sale on 12.10.1971 in respect of 85 cents was considered and that extent was deducted and the net extent was found to be 21.28 acres. Exemption was granted in respect of 30 cents of land and the balance was found to be 20.98 acres. The Taluk Land Board found that the ceiling limit applicable to the declarant is 18.40 acres and he was

directed to surrender 2.58 acres. After giving credit to the extent already directed to be surrendered, namely, 1.36 acres, the declarant was held liable to surrender 1.22 acres.

2. The contention of the revision petitioner is that as on 1.1.1970, the statutory family consisted of nine members and that at the time when Section 87 proceedings were initiated, the statutory family had ten members and therefore, the family is entitled to retain fifteen standard acres, so however, that the extent shall not be below fifteen acres and not more than twenty acres. The Taluk Land Board rejected this contention.

3. The learned counsel for the petitioner submits that the petitioner is entitled to the benefits of the Kerala Land Reforms Amendment Act, 2005 (Act 21 of 2006) and that the Taluk Land Board has to look into the matter in the light of Act 21 of 2006. Since Act 21/2006 contains a non obstante clause in Section 7(E)

which is introduced as per the amendment, I am of the view that a further examination of the case in the light of Act 21 of 2006 is necessary. Since the matter is being remanded for consideration of the question in the light of Act 21 of 2006, I am of the view that the contention raised by the petitioner on the basis of the addition of one member in the statutory family is also to be left open to be considered by the Taluk Land Board afresh.

4. For the aforesaid reasons, the order passed by the Taluk Land Board is set aside and the matter is remanded for fresh consideration. The Taluk Land Board shall decide the matter afresh and also in the light of the Land Reforms Amendment Act, 2005 (Act 21 of 2006).

The Civil Revision Petition is allowed as above.

(K.T.SANKARAN)
Judge

ahz/

K.T.SANKARAN, J.

C.R.P.NO. 2922 OF 2000 B

JUDGMENT

21st February, 2007